CHAPTER 9

Traditional Justice

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Respect for Specificity in Justice Traditions

In chapter 2 of this volume, Jennifer Llewellyn and Daniel Philpott argue that we live in an age of peacebuilding, though hardly an age of peace.[1] Part of the character of that age of peacebuilding is the search for a concept of justice that might inform a just peace, positive peace that can be distinguished from negative peace as no more than absence of war.[2] Restorative justice is advanced in this volume as a candidate for such a concept of justice. Reconciliation is advanced as a partner concept, so together restorative justice and reconciliation can provide a framework for peacebuilding. Louise Mallinder, for example, explores how reconciliation and restorative justice might be advanced through restorative amnesties. Other chapters tweak these partner concepts together and apart at other points of peacebuilding policy. Jonathan VanAntwerpen's chapter reveals something of the way an institution like the International Center for Transitional Justice became a battleground for contestation between reconciliation/restorative justice and justice as putting war criminals in prisons, as well as a space for combining these concepts and packaging the combination as holistic.

The problem in focus for this chapter is that all these contested concepts have mainly been crafted in the West. Restorative justice and penitentiary-style prisons for housing criminals long-term (as opposed to police lock-ups or castle dungeons) are transitional justice institutions that have conceptual and practice origins in the Northeast of North America. In that sense, the International Center for Transitional Justice in New York is in the right place to be a battleground for competing conceptions of how reconciliation and punishment might or might not cohere. I have my own, somewhat different, views on how to integrate restorative justice and punitive justice within a responsive regulation policy framework[3] and according to civic republican

values of freedom as non-domination.[4] The objective of this chapter is not to defend that alternative, but to explore the problem faced by all the alternative peacebuilding paradigms at the UN, because their influences are so Western. Still, respect and learning from specificity in justice traditions, it must be said, does not require one to step back from republican advocacy of freedom as non-domination, of separations of powers. Republican thought must value a niche for non-state justice in a separation of powers, and freedom as non-domination requires meaningful space for traditional forms of contestation. While no case is made for why freedom as non-domination, separations of powers, women's rights, restorative justice, and reconciliation are worthy discourses for the local traditions of all societies to engage, we can say that these are candidates for two-way global dialogue because they lean on principles discussed by Llewellyn and Philpott, like equality of relationship, respect, and dignity, which are of concern in all national conversations about justice.

First, this chapter explores its topic of traditional justice by urging respect for specificity in non-state justice traditions. It also urges respect for reconciliation and restorative justice as encompassing traditions of thought and practice that can both enrich and be enriched by non-state justice in developing societies. But reconciliation and restorative justice can only be combined in a spirit of humility. It is possible to embark on a journey of learning how to work with reconciliation and restorative justice in a way that is better informed by the wisdom of traditional justice. This journey is opened up with a consideration of ways that traditional justice agreements can invoke superior compliance mechanisms than court orders. Then we contemplate how reconciliation might be conceived sufficiently broadly as to encompass *gotong royong* (what Clifford Geertz[5] describes as an Indonesian philosophy of "joint bearing of burdens"). The implication of this analysis is that the West may have an impoverished conception of reconciliation because it does not extend to *gotong royong*. Finally, we consider what restorative justice and reconciliation can learn from the use of humor in traditional justice.

I am not especially fond of the term traditional justice. It is the term chosen by International IDEA (Institute for Democracy and Electoral Assistance) for their influential volume by Huyse and Salter, *Traditional Justice and Reconciliation after Conflict: Learning from African Experiences*.[6] Like Huyse and Salter, I will argue that alternatives for conducting comparative research—customary justice (which I take to be a synonym of traditional justice), indigenous justice, informal justice—have equal or greater problems.

One important conclusion of this chapter is that if one is promoting the utility of restorative justice principles and practices for peacebuilding in a particular place and finds that a traditional justice practice considerably realizes restorative justice ideals, it is normally best to work with or through that traditional practice. And when one does that, it is best to call that justice work by its traditional name rather than import the Western term restorative justice to describe the practice. So if villagers in Rwanda describe what they are doing as *gacaca*, a researcher discussing non-state justice in Rwanda should use that term to describe that practice. Doing so is not only more precise and grounded, it is also more respectful of local ownership of justice traditions. This does not help the comparativist, who is not likely to find it very helpful to describe one society's justice system as more *gacaca*-like than another's. In this chapter, Sally Engle Merry's[7] work is used to locate a path for synthesis of a global discourse like restorative justice or reconciliation and local traditional discourses. As in Merry's work, this chapter uses questions of gender and rights to explore some of the dilemmas of reconciliation, restorative justice, and peacebuilding.

State and Non-State Justice

In the twenty-first century, all nations have a state justice system. The idea of having one has utterly globalized in the past six centuries. All but a handful are based on one European system of formal law or another, or some hybrid of different European systems (such as Louisiana's or Quebec's French-English hybrids). The major exceptions are around seven states with Islamic law systems.[8] The most analytically useful distinction is perhaps between state justice processes and non-state ones; though one must not allow it to blind us to the way state and non-state systems influence, capture, and constitute one another.[9] One problem with such a conception is that in the kind of organizational society in which we live, so many of the most important non-state justice processes are rather non-traditional creations of private corporations. So, if we work in the private sector, we will have more encounters with the company's justice system than with the state system. That will not usually be described as a contact with the corporate justice system, but with the corporate compliance group, the occupational health and safety office, the comptroller, the general-counsel, the anti-discrimination officer, the auditor. The quality of the justice might not be all that great! There will usually be some sort of appeal processes available, however, if we believe we have been unjustly demoted or disciplined, and there will be a body of rules and precedents we can appeal to. Even those of us who are university professors have more encounters during our lives with just and unjust university sanctioning systems than with state ones. So even in the Western societies with the best resourced state justice systems, most people feel the pinch of a non-state justice system more often during their life. This is even more true of the societies that have been experiencing armed conflict within their borders during the twenty-first century,

all of them non-Western, all of them with much more weakly resourced state justice systems than in the west.

It is nevertheless helpful to think about the non-traditional non-state justice of late modern corporations. When conservative politicians in a country like Australia say that our legal system should not recognize Aboriginal or Torres Strait Islander law because they believe in "one law for all Australians," the best way for legal pluralists to respond is to say that is not true. If we work in a university and engage in serious plagiarism, we will be subjected to a university justice process that will probably decide to end our job, indeed our entire career. But if we are an ordinary citizen and engage in plagiarism that is not a breach of copyright, no one is able to drag us before any justice system for that. If we are a professional rugby league player and say publicly that the referee was terribly unfair, we might be dragged before a body called the "National Rugby League Judiciary" and fined for "bringing the game into disrepute." A sports fan who shouts the same thing from the grandstand is viewed by national law as exercising freedom of speech and is beyond legal sanction. So my first conclusion is that in no country is there "one justice system for all" and in no country is the state system the most important vehicle for delivering justice (or injustice) to most of us.

Justice research focuses disproportionately on state systems. In a state like Timor-Leste, where I have been doing fieldwork since 2006, large private organizations are thin on the ground, but the survey evidence is overwhelming that most citizens take most of their grievances about injustice to a traditional justice system, and more than 80 percent of people prefer that to recourse to the state's courts.[10] A problem with calling that Timorese justice with people literally sitting "on the mat" with village "traditional" or "customary" or "indigenous" justice is that it might be infused with Christian traditions of prayer, hymn-singing, and Christian concepts of forgiveness that, for the most part, only arrived in the southeast corner of the globe in recent centuries. This is even truer with traditional reconciliation following the conflicts in Bougainville and the Solomon Islands, where the infusion of Christianity into traditional justice is both stronger and more historically recent.[11]

A lot of traditional justice is not very traditional. It constantly adapts. Its practitioners often sought out hybridity with Christianity to bolster legitimacy for their justice practices, just as Christianity sought out hybridity with the animism of traditional justice in the South Pacific to bolster its legitimacy. Most creation of culture through communities is highly creolized, and this seems particularly true of the creation of traditional justice.[12]

Indigenous justice has an additional set of problems as a comparative framework. It is a concept well-attuned to the justice discourses of white settler societies—Australia, Canada, New Zealand, the United States—as a way of referring to the justice practices of indigenous minorities. But indigenous justice is not part of the discourse of how the British refer to the traditional justice of Scottish clans. Miranda Forsyth argues that the term indigenous justice is not attractive in a nation like Vanuatu where the state legal system is fully operated by indigenous professionals yet is distinguished from what locals prefer to describe with the *Pidjin* word *kastom*. For this reason, she prefers the analytic frame of distinguishing state and non-state justice systems.[13]

Informal justice has the different limitation that some non-state or traditional justice systems are quite formal. For example, Huyse and Salter[14] conclude that Rwandan *gacaca* and some other African traditional justice practices have formal attributes. A limitation of local justice is that non-state systems such as religious justice systems can be non-local, even transnational.[15]

So for many comparative analytic purposes, it is useful to distinguish state and non-state justice and then consider how restorative is state justice in that society and how restorative are its various non-state justice systems. Harry Blagg[16] and others legitimately worry that such a method can involve a kind of "orientalism,"[17] where indigenous custom is appropriated to a Western project like restorative justice, putting indigenous ideas into foreign contexts where it is detached from the cultural moorings that give the indigenous project point and purpose. While that is a risk, it is another kind of risk to write books on restorative justice that only learn from Western justice practices. Disrespect resides in finding it perfectly natural that non-Western peoples should come to the West to undertake courses in Western state law, yet failing to see the value in Westerners travelling east and south to learn from the wisdom of non-Western non-state justice and then incorporating that wisdom in their restorative justice writing.

It can be crudely simplifying and Westernizing to think of a traditional form of dispute resolution in a village society as restorative justice. It can be equally misleading to think of the practice as any kind of justice, including indigenous justice. Justice is a Western concept too. Much of what we describe as traditional or indigenous justice is actually thought of by the people who practice it with concepts that could never be translated as justice, concepts such as making things right, restoring balance, establishing harmony through and with the ancestors. Justice is like rights in that sense. There may be no concept of justice or rights in the traditions of a particular people. That is not to say that there are not ways of thinking about what Westerners call justice for women that might resonate with and enrich Western discourses on these matters. Nor is it to deny that these societies, and especially women within them, might not draw benefits from being part of a global conversation about justice or rights for women, and from being part of a global feminist politics that can deliver them some resources to do things their women value.

Others in this volume, like myself in the past,[18] have dedicated many pages to arguing why restorative justice is a meaningful and powerful concept, and other pages on how it should be conceptualized. I will not rejoin those debates and conclusions here, but rather take them as my starting point. I take restorative justice to be a banner around which a global social movement politics valued by the contributors to this volume has rallied. I see it as a social movement originating in the West, but a social movement about a form of practice whose richest instantiations are in developing countries, and especially those that have had long histories of armed conflict. The social movement actually originated at the center of Western power in North-eastern North America, the early hot spots being in a semi-circle running from Ontario to Minnesota to Pennsylvania. In the 1980s in Australia, my own research group was studying exit conferences following regulatory inspections in places like nursing homes and coal mines and in the early 1990s we were studying what the New Zealanders had dubbed family group conferences for youth crime. Neither we nor the New Zealanders started calling this conferencing innovation restorative justice until some time between 1991 and 1993. In Australia, we did that quite consciously because we believed there was power in ideas that connected into the circuitry of northern knowledges, and we decided to be obeisant to the fact that the design of global circuitry was mostly defined in the North Atlantic. We were conceptually obeisant but not ideationally humble. We thought extant North Atlantic practices of victim-offender mediation were inferior to conferencing and we had a variety of theoretical positions on why we believed that.

By the same lights, these days I think many of the restorative practices I see in village societies have virtues that are lacking in Western restorative justice conferencing. Some will be discussed in this chapter. For the same reason that it was good to encourage New Zealanders to do so, I think it is good to encourage the master practitioners of those village methods for seeking justice to engage with the social movement for restorative justice. It is good for village practitioners to acquire that comparative lens on why their practice is so unique and valuable, and yes, to pick up some useful ideas from other places, and it is good for Western restorative justice to be likewise engaged with southern voices.

Vernacularization

One of the most important contributions to the law and development literature addressing these issues is Sally Engle Merry's *Human Rights and Gender Violence*.[19] It is a study of how local actors creatively adopt human rights ideas, find a way of channeling them through indigenous discourses, of justice or balance, to reshape social relationships. Merry's vision is for the foreign researcher as a multisite ethnographer of the comparative project of understanding the diffusion of human rights approaches to gender violence. At various points of space-time across the globe, the researcher engages with only fragments of a larger local system that is neither coherent nor fully graspable. One of Merry's case studies is the reaction of the international human rights and feminist communities to the Fijian reconciliation tradition of *bulubulu*. The concern at the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) hearings at the UN has been that *bulubulu*—enacted as a person apologizes for wrongdoing, offers a whale tooth and a gift and asks for forgiveness—has been widely used for rape. After Fiji's 1987 coup, the indigenous coup leaders declared the use of *bulubulu* for rape legal, and *bulubulu* rape cases increased. It is a significant case for restorative justice because as Fijian society changed, the custom became in some senses more restorative: it "changed from a practice that focuses on preventing vengeance between clans to one that supports a victim and holds the offender accountable."[20] The Western human rights and feminist resistance fueled ethnic nationalist defiance, even from Fijian feminists, and the use of *bulubulu* for rape increased rather than decreased. The upshot was that discourses of restorative justice, human rights, and feminism were all discredited.

Merry's book also describes a number of much more positive encounters between local tradition and global discourses of women's rights. In these more optimistic cases what happened was that rights discourse was translated into local vernacular ("vernacularized"). The key actors in these accomplishments were local intermediaries who had a "double consciousness" that combined logics of global human rights and local ways of thinking about grievances. "They move between them, translating local problems into human rights terms and human rights concepts into approaches to local problems."[21] Just as human rights discourse and local justice vernaculars about resolving specific grievances can and should be natural allies most of the time, so restorative justice discourse and traditional justice vernaculars should be allies in most contexts. The authority of human rights as a global movement is enhanced in such encounters and the capacity of traditional justice to prevent local injustice can also be enhanced when it successfully appeals to rights discourse. For example, in village justice conversations, rights might be used to assert that "unwanted sex" is actually rape and to mobilize resources from international donors to support consciousness-raising about the right to freedom from rape and other forms of exploitation of women.

We can learn from this work that effective restorative justice advocates might seek a "double consciousness" of indigenous ways of thinking about

justice and of the global movement for evidence-based restorative justice. As Merry learned with rights discourse, we should not be so naïve as to think that Western trainers can convince locals with restorative justice discourse. What we can do is train local trainers in ways that allow them to acquire a helpful double consciousness. Restorative justice discourse will not be helpful post-conflict unless it is vernacularized into the language of local traditions, and unless it shows respect to those traditions. Of course there will be conflicts between effective and just restorative practice and traditional justice, just as there are endless conflicts between traditional justice and state justice and between restorative justice and traditional justice. These conflicts can be approached conversationally rather than coercively. The key mediators of the conflicts must not be foreign ideologues of restorative justice who threaten to withdraw funding, but locals with a double restorative-traditional sensibility. A formidable degree of field experience in many post-conflict contexts like Bougainville[22] now reveals that trainers with the double sensibility, like Chief John Tompot,[23] can resolve conflicts between restorative justice principles and tradition with profound wisdom.

The final sections of this chapter argue that one reason things so often work out this way is that justice is immanently holistic. Different conceptions of justice are different in major ways, but also have shared features and foundations that are forged in recurrently common human experience of injustice and oppression. Rape is a good example of such recurrence across all societies that is experienced by its survivors as oppression. Not only can locals with dual traditional-restorative sensibilities mediate in ways that enhance the legitimacy of both restorative and traditional justice, they can also be facilitators of each learning valuable lessons from the other. And the conversation can foster creolized adaptation by both sets of justice practices. Such creolization throughout human history has been a driver of justice innovations worth evaluating. Llewellyn and Philpott[24] go further to argue that justice and reconciliation are immanently holistic. So one might take the analysis of this chapter further, that locals with shared traditional, reconciliatory, and justice sensibilities might mediate fertile new hybrids.

Conversely, it is destructive of both the virtues of traditional justice and the virtues of global restorative justice to seek to resolve the real conflicts that arise between them by coercive Western imposition. This parallels Merry's lesson of the *bulubulu* contest between traditional justice and the global regime on the rights of women as a conflict that reduced the legitimacy and efficacy of both.

A final lesson of Merry's work is her empirical finding that global discourses (of rights) were translated "down" more than grassroots perspectives were translated "up." Restorative justice advocates need to contemplate the structural drivers of stronger downward than upward translation and seek to compensate for a lopsided appropriation of meaning by special efforts to listen to the voices of the periphery and to honor them in restorative justice writing and training. C. Wright Mills's sociological imagination is about converting personal troubles into public issues.[25] To accomplish global public consciousness about how to do a better job of peacebuilding, we must learn how to connect a personal story of transcending violence in the periphery to larger principles of human rights, of restorative justice. We can become effective in our global politics of peacebuilding when we translate local stories of reconciliation into global discourses with social movement momentum. Restorative justice is slowly acquiring that momentum.

Learning from Traditional Peacemaking

This section seeks to make the foregoing abstractions concrete by illustrating three ways in which restorative justice might learn from traditional peacemaking. The first is about increasing the probability that what is agreed in restorative justice processes will actually be delivered. The second is about the Indonesian philosophy of *gotong royong* or joint bearing of burdens. The third is about the role that humor can play in clearing a path to healing.

THE SPIRIT OF COMPLIANCE

The evaluation literature on restorative justice suggests that its strongest effect is that the agreement in a restorative circle is more likely to elicit compliance than the order of a court, even though the latter is backed by the law of contempt and the restorative circle is not.[26] We think this is because loved ones have a superior capability of holding offenders to their undertakings to do work for victims, attend a drug rehabilitation program, and the like, than are the police.[27]

In light of this, I was intrigued to learn from my fieldwork with Hilary Charlesworth and Aderito Soares in Timor-Leste between 2006 and 2009 that one reason most Timorese preferred traditional justice on the mat even in towns, but especially in villages, for cases of gang violence connected to political and ethnic conflict, was that undertakings to desist from future gang violence were much less likely to be complied with after court cases. Worse than that, the belief was widespread among Timorese that if a court punished someone after a complaint to the state justice system, the court case would run a serious risk of triggering a revenge attack by the defendant's group. Conversely, when those involved in traditional justice literally sat down on the mat

that village elders spread out for this ritual purpose, there was a belief that breaking the agreement would lead to dire things happening to the individual who broke the reconciliation agreement. This was because the agreement on the mat had a spiritual significance that undertakings to a court did not. In my 2013 fieldwork in the Pakhtun areas of northwest Pakistan with Ali Gohar, all the differences between state and non-state justice discussed in this paragraph were present. So much so that children were advised to stay away from the entrance to the prison after 4:00 p.m., which is the time when prisoners were released after serving their sentence, lest the children were to get caught in crossfire.

We have found similar beliefs about traditional post-conflict reconciliation in Bougainville and across many other parts of Melanesia,[28] in the Moluccas, and across many parts of Indonesia.[29] In Bougainville peace processes, once spears and arrows had been ritually broken and a stone buried to indicate the permanence of the peace, anyone who broke that peace would be at risk of dying from sorcery that would naturally flow from that breach. In Sulawesi, Indonesia, we discovered something similar, though it was the head of a ritually slaughtered buffalo that was buried rather than a large stone.

Returning to the Timor-Leste case, in circumstances where there was fear that the punishment of a court would fuel revenge attacks, it was viewed as important for the elders to lead a reconciliation process on the mat that might result in compensation (in buffalo, other livestock, or goods) not only for the original violence but also for the punishment resulting from state justice. There would be apology for harsh things said and done in the past, including in the courtroom. Likewise in northwest Pakistan.

In Merry's terms, vernacularizing justice through moving it to the mat not only connects peacemaking to restorative justice principles that make more local sense than Western restorative-justice-speak, it also connects peacemaking to the commitment to comply with conference outcomes in a way that makes sense in Timorese terms. In some contexts in Melanesia and further across to the Moluccas, rituals of Christian prayer are hooked into belief systems regarding the spiritual unbreakability of peace agreements. The priest's prayers, informants said, might mention descent into hell for spoilers of the peace. This is Christian vernacularizing of beliefs with more animist origins.

The point is that neither transplants of Western state justice, nor Western restorative justice, nor Western-style diplomacy in these contexts are likely to deliver the commitments to a peace distinctively available from traditional peacemaking. Second, skillful translation of one form of peacemaking or justice into the vernacular of another by mediators with dual sensibility across these discourses can render one form of justice less vulnerable to being ravaged by the other when it is seen as an affront to the other form of justice.

One form is less likely to be ravaged by another form of justice process when vernacularizers of justice search for holistic justice in a spirit of deep respect of one justice tradition for another. One font of respect for state justice from village elders who translate Timorese justice wisely on the mat is a recognition that some actors are too powerful, too determined to fight, or too well-armed for village elders to be able to manage them on the mat. Wise elders in these contexts call in the police or military to handle the matter. Obversely, wise police tend to defer a lot to village elders when they wish to handle a matter on the mat, yet stand ready to step in (calling in military backup where needed) in cases where this is what village elders request.

A difference between New Zealand and Australian practices of restorative justice conferencing is that in New Zealand it is common for conferences to open and close with a Christian prayer, especially when participants include Maori or Pacific Islanders, while in Australia this almost never happens. This is because Australian thinking is that the church should be kept out of a state domain like criminal justice. An implication of the analysis in this section is that we might consider seeing the Australian approach as doctrinaire, at least so long as non-believers say, without feeling pressured, that they are fine with believers saying a prayer. Before committing too strongly to the value of spirits in compliance with restorative justice agreements, however, it is worth considering the mixed reviews of the role of *magamba* spirits as (male only) dead ex-combatants who returned following the civil war in Mozambique to reject punitive justice and demand a form of restorative justice (according to the account of Ingreja and Dias-Lambranca).[30] As those believed to have suffered most, dead warriors demand post-war healing of war-related wounds. Bad things are said to happen to those who eschew the injunction to embrace reconciliation. Unfortunately, however, *magamba* do not empower the living through dialogue. Their messages are only transmitted through the bodies of designated individuals who can then abuse their special line to the dead warriors to make demands that advance their personal political projects. We might therefore be agnostic, seeing the spirits of all religions as resulting in mixed bag of effects.

GOTONG ROYONG

In the Indonesian research for the *Peacebuilding Compared* project, we found non-truth and reconciliation much more common than truth and reconciliation.[31] This contrasts with the greater prominence of "truth" as an objective of various modalities of traditional African reconciliation.[32] High integrity truth-seeking was rarely present in Indonesian peacebuilding, refuting Braithwaite's starting model of peacebuilding.[33] Indeed, this starting model, grounded in the empirical literature on truth and reconciliation in South Africa,[34] has actually not been validated in any of our first 12 conflicts of *Peacebuilding Compared*.

Nevertheless, we concluded that Indonesian non-truth and reconciliation has supported peace, though we cling to the suspicion that truth, justice, and reconciliation might have made that peace more resilient. Like Susanne Karstedt,[35] we have learned that it is important to focus on the *longue durée* of reconciliation that may overcome the non-truth of short-term reconciliation. Karstedt discovered in post–World War II Germany that the creation of a space for "moving on" was initially based on a non-truth that just those in Hitler's inner circle who were convicted at Nuremberg were culpable.[36] That distorted truth, however, laid a foundation for subsequent testimony that gave voice to victims of the Holocaust. Victim testimony from the 1960s ultimately became a basis for an acknowledgment of the full, terrible truth. Deeper reconciliation between the German people and their former enemies and victims then occurred.

Remarkable accomplishments of the reintegration of combatants from organizations such as *Laskar Jihad*, in which religious leaders showed great leadership for peace, was a feature of Indonesian peacebuilding. So was reconciliation through sharing power combined with the sharing of work (*gotong royong*) for reconstruction. *Gotong royong* is a core tenet of Indonesian philosophy that means mutual aid or "joint bearing of burdens."[37] *Gotong royong* is a widespread modality of healing. The Indonesian military, whose actions in fueling the conflict in Poso, and whose inaction in preventing it, caused so much resentment on both sides, participated widely in *gotong royong* by rebuilding Poso houses that had been lost to victims on both sides.[38] One reason why reconciliation has been less studied in Indonesia than elsewhere is perhaps that little of it has been done by national elites or even provincial elites. The politics of reconciliation that mattered happened from the bottom up as a micro-politics massively dispersed among thousands of leaders of villages, clans, churches, mosques, and subdistricts.

Reconciliation is a word that can mean many things. We can see the point of view of some restorative justice scholars who think it is a concept with too little precision.[39] Changing hearts, changing minds, restoring relationships, forgiveness, apology, helping one another through *gotong royong*, former enemies shaking hands and agreeing to put the past behind them—these are all very different things. We do, however—perhaps unproductively, perhaps not—lump them together in a discussion of types of reconciliation.

On the other hand, as Duane Ruth-Heffelbower pointed out in a sermon he gave in Indonesia in 2000, reconciliation is a word that travels surprisingly well across languages and religions,[40] while allowing different peoples to impute somewhat different meanings to it as it travels. Ruth-Heffelbower in that sermon argued that the teaching of Paul was that different groups and individuals should each find their own different paths to reconciliation so these differences will constitute resilience of reconciliation:

> In his second letter to the church at Corinth the Apostle Paul was trying to explain his goals, and describe goals Christians should have . . . [T]he goal Paul set was simple: be reconciled to God—*punyalah rekonsiliasi dengan Allah,* and help others to be reconciled as well. . . . Reconciliation is a big word. What do we really mean by "the message of reconciliation?" That's *rekonsiliasi* in Bahasa Indonesia, and means the same thing. The word "conciliation" means the process of bringing two people or things together, to help them fit together. To reconcile means to fit together again two people or things that have come apart. It is similar to *mencocokkan*, but *mencocokkan* has the feeling of forcing things to fit together, while reconciliation has the feeling of inviting things to fit together.[41]

It may be that United Nations discourse is more attracted to reconciliation than to restorative justice precisely because it is even more open-textured than restorative justice, allowing different traditions to connect to the concept with their own meanings. Much of the reconciliation work in Indonesia during the past decade was indigenous, pre-Islamic, and not especially "Indonesian"; it was to a degree *pela-gandong* in Maluku,[42] *hibua lamo* in Halmahera,[43] *maroso* in Poso,[44] and *peusijuek* in Aceh,[45] among other local reconciliation traditions that were even more variegated among Dayaks and Papuans.[46] Yet there were two definite patterns to post-conflict reconciliation in Indonesia: non-truth and reconciliation and *gotong royong.* We consider each in turn. At first, we found the low level of political commitment to high-integrity truth-seeking at all levels of politics and in most civil society networks disturbing, especially when non-truth meant not just forgetting, but lying. The most common kind of lie was widespread blaming of "outside provocateurs" for atrocities that were committed mostly by locals against locals.

So how was reconciliation without truth accomplished in most of these cases? Thousands of meetings across these conflict areas in the early 2000s were called reconciliation meetings. Some included only a dozen or so leaders; quite a number had hundreds of participants, some had more than 1000. The most common number was approximately 30 people who were key players from two neighboring villages or the Christians and Muslims from the same village, who had been at war with each other not long before. Other meetings

were called interfaith dialogues, others *adat* rituals bearing various customary names for reconciliation meetings among the ethnic groups of that locality.

Sorrow, even remorse, for all the suffering was commonly expressed at these meetings. Tears flowed and there were often deeply sincere hugs of forgiveness. No one ever, in any of the reports we received of these meetings, admitted to specific atrocities that they or their group perpetrated against the other. Most of the agenda was dominated by practical concerns of rebuilding and reintegration. Sometimes the ethnic group that ended with control of the village would invite back only a small number of trusted families of the ethnic other as a first step toward rebuilding trust. A common gesture of practical reconciliation was for a Christian community to start rebuilding a mosque they had burned down or a Muslim community to start rebuilding a church they had razed. The cleansed group might be invited back to the village to see this for themselves as a sign of the sincerity of the desire for reconciliation and to give advice on how to do the rebuilding. They might then do some work together on the project.

When the cleansed group returned, their former enemies would often organize a moving welcome ceremony for them. Former enemies who, before the conflict, had also been friends and neighbors, would shower them with gifts of food and other necessities in a steady stream of visits to their home. The point of this summary narrative is not to say this always happened. There were also unpleasant exchanges, bitterness, and people who were shunned. The point is to give a sense of how reconciliation without truth worked when it did work, which was quite often. When a mosque substantially built by Christian hands was opened, the Christian community would be invited and Christian prayers would sometimes be said inside the mosque. We also found rituals of everyday life to be important to reconciliation. Christians attending the funeral of a respected Muslim leader and embracing Muslims soon after the conflict were sites of reconciliation. So were Christians being invited to the celebration of Mohammed's birthday, Muslims to Christmas celebrations, to *halal bi halal* (a forgiveness ritual among neighbors that occurred at the end of the fasting month of Ramadan),[47] and so on. In our interviews, we were told of simple acts of kindness that were important for building reconciliation from the bottom up: an *ulama* who picked up an old Christian man in his car and dropped him at the market, the loan of a Muslim-owned lawnmower to cut the grass of the Christian church. There were a great variety of locally creative and meaningful ways that people reconciled without ever speaking the truth to one another about who was responsible for crimes.

If non-truth is the first pattern of Indonesian reconciliation we have identified, *gotong royong* manifests the second. This has already become apparent in many of the examples above. Healing happens through sharing in community work projects, in building that mosque or school together. Indonesians are good at having fun when they work together; they bond through work more than Westerners do partly because the division of labor in village society is less differentiated, but also because sharing communal work and community welfare burdens is overlaid with cultural meanings of *gotong royong*. Backbreaking work that must be done to rebuild might be seen as a burden on reconciliation in the West, infused with resentment as people struggle to do it. In Indonesia, it is much more a resource for reconciliation. Valerie Braithwaite thinks power sharing is a way to transcend disengagement and dismissive defiance more broadly.[48] Perhaps *gotong royong* offers prospects of a different form of reengagement through doing, through sharing in work rather than sharing in power. For some village folk who have limited interest in sharing even local political power, there can be a kind of empowerment through work, in deciding where and how the mosque will be rebuilt. This can be confidence-building and ultimately commitment-building by other (rural Indonesian) means, especially when the military also joins in the *gotong royong*, as it has done from Aceh and Poso to Papua. Power sharing and work sharing together enable a dual assault on post-conflict disengagement and disruption of the peace.

To make this more concrete, village forums sometimes envision what their village would look like in 20 years if they choose to use the planning resources they are empowered to spend, by, for example, building a bridge at a particular spot. That is what they then decide to spend local infrastructure money on when the government provides it. Then, together, in a spirit of *gotong royong*, with some outside engineering help, they build it. Deciding together and doing together can weave a stronger fabric of peace.

The intertwining of sharing power and sharing rebuilding work through *gotong royong* that we take to be a lesson of reconciliation in Indonesia can also be important as a means of restoring dignity. All our Indonesian cases pulsate with assaults on people's dignity as drivers of conflict. We give dignity back to people who feel a loss of it when we agree to share power with them and when we pitch in to work with them on projects that they are empowered to shape and that they care about more than we do.

We can learn something about the politics of indignity and the reconciliatory politics of dignity from telling this recent history of Indonesia. We have learned from Shadd Maruna's work that "redemption scripts" that help Liverpool criminal offenders "make good" often involve, particularly at first, much less than full acknowledgment of responsibility.[49] Serious offenders say to themselves, "that was not the real me," "that was me recovering from abuse by my father," "that was the alcohol speaking, not me," and the like. Clarity of commitment to a non-violent me can nevertheless be a starting point for

desistance from violence. It seems possible to link criminological lessons from Maruna's work to peacebuilding lessons from Indonesian *gotong royong*. Consider a man who fails to fully own personal responsibility for his crime in any way that could be accepted by a victim. There have been examples in Canberra of such offenders agreeing to supervised work for the victim that in the best circumstances became work with a victim (say when the wheelchair-bound victim needs more carer support than the state will provide). This illustrates the possibility that Western reintegration practice might learn from Indonesian *gotong royong*.

In Bougainville, initial post-conflict reconciliation encounters rarely involved individuals admitting specific murders or rapes. A more common scenario involved a company of the Bougainville Revolutionary Army admitting to rape and pillage of a village and asking forgiveness. If forgiveness were proffered in return, and if over time, the admission did not lead to payback, then individuals one by one might find the courage to confess, apologize, and offer compensation to mothers that symbolizes the blood of a son killed or a daughter raped. So while Bougainville is a truth and reconciliation case with increasingly widespread acceptance of individual responsibility for war crimes, and Indonesia a case of mostly non-truth and reconciliation, in Bougainville individual responsibility tended to come much later than collective responsibility. In a similar way, we might hope *gotong royong* can become in time a foundation for full responsibility for war crimes. No reconciliation destination is ever reached in a journey with just one stop.

JUSTICE HUMOR

I often contemplate what might be the critical differences between really great restorative circle facilitators like my Australian colleague Terry O'Connell and rather ordinary ones like myself. One answer I come up with is that part of the greatness of the style of an O'Connell is his use of humor, skillfully attuned to local norms. In the New South Wales country center of Wagga Wagga, I saw O'Connell many times put people at ease in the midst of awful conflicts with deft use of passing humor. It was humor that fitted the milieu of country New South Wales, relaxed in its timing, often poking fun at authority. It seems to me that you have to be confident in your place within the cultural milieu of a particular people to be able to use humor without offense in such tense situations.

I have been surprised and interested to learn how much humor there is in Asia and the Pacific in reconciliation processes concerning terrible wartime atrocities. The documentary, *Passabe*, focuses on a Community Reconciliation

Process that was part of the East Timor Commission for Reception, Truth and Reconciliation.[50] The men from Passabe village had attacked nearby villages, burning them down, killing 74 independence supporters on orders from militia leaders backed by the Indonesian military. All but one of the Passabe perpetrators arrived for the reconciliation to tell the same story. One by one each gave their testimony saying yes, they had arrived for the attack on the village, but they personally "did nothing," were at the rear, by the time *they* arrived everything was already burning, waited in the vehicle. This was not greeted with anger so much as contagious laughter from the crowd of victims attending the reconciliation. There were interjections like: "You saw nothing?" Reply: "Nothing!" Then more laughter. This spirit of the meeting changed when finally one man started his testimony by confessing his shame for the fact that he had clubbed a man to death on orders of the militia leader and had beaten others. He was full of remorse and offered help and compensation to the families of his victims. His testimony was not greeted by laughter but by applause, embrace, tears, and gestures of respect, forgiveness, and compassion for the man who had been courageous enough to take responsibility for his crimes.[51]

It is not that humor never occurs in Western courts. Yet it is the case that the institutional ambience of the Western criminal trial is about solemnity. In contrast, much traditional justice oscillates between comedy and tragedy, as in the story of Passabe above. When I was an anthropology student living in a village in Bougainville in 1969, there was gossip that our chief, who in the matrilineal tradition had gone to live on the land of his wife in a nearby hamlet, had been treating his wife badly. The villagers were reluctant to share such shocking gossip with me, but I got the message that part of it was that the wife had been pushed to have a baby she did not want. Then one day a traditional justice process to put this right occurred. Suddenly, all the women from the wife's village arrived and took whatever property they wanted from our village—from fishing poles to bush knives. I was worried about them taking my camera; my best defense was to use it taking photos of their joyous shopping spree in our village. The justice process really was a lot of fun for them, and for us too, even though we were madly rushing around trying to hide things. One very old man puffing on a pipe joined the marauding women, and much to my chagrin, took the only chair in the village. I used to enjoy a break away from sitting on the ground to read in that chair. Our people shouted out, "Old man, you are not allowed to take things. Only the women are allowed." He chuckled behind his pipe, then took it out to retort, "If you are worried about losing things, you should get your chief to behave properly." The good humor of the occasion made the old man's point rather forcefully to us without stirring anger between the two villages.

The Poso Conflict Resolution Group and the Institute for the Development of Legal and Human Rights Studies were local NGOs that led reconciliation efforts with funding from Mercy Corps following the Christian-Muslim fighting and the founding of a terrorist training camp in Poso, where the 2002 Bali bombers trained. The Institute conducted reconciliation dialogues in a Christian village, then a Muslim village, then with a meeting of the two villages, with an average of 30 people attending more than 300 meetings. Their meetings did not involve apologies and rituals of forgiveness; rather, they focused on practical issues of refugee return. The hope was that forgiveness might follow in time. Facilitators said humor that might seem morbid or inappropriate to outsiders often worked in dealing with tension. For example, one man laughingly said, pointing to a friend with whom he had a minor disagreement in the meeting: "When we have the conflict again, you are my target." Another said, smiling: "Are we attending this meeting as the victims or the actors?"

Just as I could never be confident in the country town milieu of Wagga Wagga to use the humor Terry O'Connell deployed, it is even more unimaginable that I could utter the kind of apparently humorous remarks that were passed in those Poso meetings. Humor is a quirky thing culturally. Even TV sitcoms do not travel particularly well between the US and UK, two predominantly Anglo-Saxon societies that have much heritage in common. If it is a good hypothesis that humor has important value in helping people cope with confronting severe violence, and if the solemnity of state justice rules humor out too often in comparison with traditional restorative justice, then we may only be able to seize this advantage by having only locals facilitating local reconciliations. This takes us back to the conclusion that the practice of flying in Western experts for reconciliation processes may be less valuable than training local trainers, keeping cultural dopes away from the direct conduct of reconciliations beyond their home culture.

Justice as Immanently Holistic

Erik Luna has argued that holism is fundamental to the philosophy of restorative justice.[52] He contends that in the give and take of dialogue in restorative justice processes, competing justice theories are allowed space to contribute to decision-making. Often there will be practical agreement on an outcome from this dialogue, though the philosophical motivation for the agreement will be very different for different participants in the conversation. One reason this happens is that in practical reasoning based on contextualized conversation it is hard for listeners not to become concerned about the worries of others in the conversation. Hence, they seek to craft integrated solutions that redundantly cover all the worries on the table.

Justice is to a degree immanently holistic, though not totally holistic; otherwise there would be no point in distinguishing procedural justice from the justice of outcomes. Procedural justice has been conceived in the literature as having a number of facets—including consistency, correctability, decision accuracy, impartiality, ethicality, and process control—yet these facets tend to be moderately highly intercorrelated.[53] Second we find that procedural and distributive justice tend to be positively correlated and that both are positively correlated with restorative justice. Hence, one of the arguments of restorative justice theorists has been that restorative justice, compared to existing justice practices, contributes to procedural justice, perceived fairness of outcomes (distributive justice), and indeed social justice.[54] Howard Zehr argues that this holism in the conception of justice is to be found in the biblical notion of justice as *shalom*.[55] The intuition about the immanent holism of the *shalom* way of thinking about justice is that a restorative justice process that seeks to empower stakeholders to repair the harm of an injustice will produce outcomes that are more distributively satisfying to stakeholders than a process that seeks to deliver equal punishments to equal wrongs. Heather Strang's writing suggests one reason is that a narrower just-deserts or proportionality objective allows less leeway for a wider contract zone in which a win-win outcome can be crafted—hence restorative justice outcomes are produced that are more generally conceived as fair.[56] The greater control of process in the hands of stakeholders as opposed to justice professionals might also explain why restorative justice is perceived as more procedurally fair. We can also intuit why justice may be immanently holistic by going in the opposite direction in ways suggested by the writings of John Rawls and indeed most other writers on justice.[57] An unjust procedure will be more open to domination by the person with the most power rather than the person with the best case, and so will lead both to less fair outcomes and to social injustice by virtue of domination of the powerful.

The fact that justice is not fully holistic—that procedural, restorative, and distributive justice often conflict—means that there is value in studying the tensions between different versions of justice. Restorative justice innovation takes a different tack, however. It says that because there appears to be an immanent holism of justice as *shalom*, which our editors would add includes justice as reconciliation, why not search for institutional ideas that maximize the synergy of holistic justice? Then it theorizes restorative justice and reconciliation as those institutional ideas. Religion, we argue in this chapter, is one institution that when mobilized with respect for the other, including non-believers, can promote holistic justice synthesis.

Holistic Justice, Peace, and the Good Society

A theme I have long pursued in my research and politics is that the struggle for restorative justice is part of a wider social movement politics for justice (that is holistic). This chapter advances that agenda by showing through the work of Merry[58] the considerable space for shared struggle between the global social movement for restorative justice, the global human rights movement, and feminism. In the discussion of Merry in the pages above, there was no consideration of procedural rights such as the prohibition of detention without trial. But this is obviously another arena of shared struggle between rights advocates and restorative justice advocates, who are joined in the belief that procedural justice is part of what makes holistic justice just. And therefore restorative justice advocates are often active in supporting the work of groups like Human Rights Watch and Amnesty, but more importantly of local human rights NGOs in conflict zones.

The theoretical contention here is that societies that are more holistically just are likely to have less crime and less armed conflict. Broken down, societies that have more social justice, more procedural justice, and more restorative justice are likely to be societies with less crime and less war. I started working on this research program by arguing in an evidence-based manner that societies with greater inequality of wealth and power and greater gender inequality are likely to have higher levels of both common crime and white-collar crime.[59] On armed conflict, it is Paul Collier who has made the most powerful case that one of the most effective things we could do to reduce warfare in today's world is lift "the bottom billion," the poorest billion people in the world, out of extreme poverty.[60] Collier reaches this conclusion in an evidence-based way by showing that extreme poverty of nations, controlling for other variables, consistently and strongly predicts warfare in the historical conditions of the past half century. My research group has leaned heavily on Tom Tyler's[61] work on the theme that procedural justice might reduce lawbreaking, and on the holistic connections between procedural justice and restorative justice.[62] We have made limited progress in exploring the empirical connection between treating people with procedural fairness and armed conflict; but this connection has already begun to emerge, particularly as ethnic or religious groups take to arms when they feel they have been denied a fair hearing of their grievances from institutions they see as dominated by another group.[63] In *Restorative Justice and Responsive Regulation* I first sought to advance the hypothesis that restorative justice has potential to contribute to both the reduction of crime and the reduction of war.[64]

This holistic justice agenda is of course massively macro-sociological, and therefore the contributions of our research community have been limited.

Yet the agenda seems a worthy one with which new generations of scholars can persist in an evidence-based fashion. Part of the tiny contribution of this chapter is in helping us to see that while we might be interested in a bold macro-sociological agenda, we will find a need to put aside macro terms like "justice" and "rights" when we connect the macro vision to micro struggles for non-violence. The contribution is so little because it is so derivative of the work of Sally Engle Merry.[65] Macro theories are useless unless they are micro-macro. Merry's contribution is in showing vernacularization as a macro-micro-macro path. For restorative justice advocates it implies, "Do not conduct struggle for justice in conflict-ridden developing countries in the language of restorative justice." It means finding ways to support feminists with dual commitments to holistic justice and traditional justice that can be fluently transacted in the language, even leaning on the humor, of traditional cultural forms.

Conclusion

In this spirit, let us reinforce our conclusion, within the methodology that generates it, with a final ethnographic fragment. It starts with a glimpse of the war-making potential of fundamentalist actors who shun Merry's double consciousness, and then the peacemaking potential of culturally adept locals who embrace it. Conditions of warfare bring to the fore fundamentalist interpreters of tradition of the first type. During the conflict in Poso,[66] myopic Islamists interpreted the longstanding Christian-Muslim cultural tradition of dancing the *dero* (traditionally symbolizing harmony with young people holding hands dancing in a circle) as a morally corrupt Christian tradition that allowed inappropriate touching between adolescent boys and girls. Traditionally, it was actually a ritual of harmony embraced by Poso Muslims and Christians alike that probably pre-dated the arrival of Islam and Christianity in Poso. These *ulamas* also associated the *dero* with the evil of alcohol, which sometimes was consumed by young people of all faiths at these events. *Ulamas* banned the *dero* during the armed conflict between Christians and Muslims in Poso. Part of the process of reconciliation negotiation was that more moderate *ulamas* became willing to interpret the *dero* not within a Christian frame, nor a corrupted "boy-meets-girl" frame, but within a framework of traditional intergroup harmony and reconciliation. As we found in Maluku and North Maluku with *pela-gandong* and *hibua lamo*,[67] in Poso traditions like the *dero* and *maroso* that had been waning pre-conflict and during the height of the conflict have been reinvigorated and reinvented as more syncretically Muslim-Christian "brotherhood" (and sisterhood) traditions.

Simply because tradition is the tool of the war-maker, we must not fail to see it as a central vehicle for vernacularizing peace. As in the discussion of the role of the *magamba* spirits in Mozambique, however, elements of oppression and of liberation can be vernacularized simultaneously within the one ritual. We must therefore be diagnostic in our dual sensibilities about when each arises; we must be deft in our engagement to strengthen freedom and weaken domination.[68] There are growing numbers of examples of such engagement transforming traditional justice institutions that were once utterly male-dominated—one is *bashingantahe* justice of "men of integrity" in Burundi, including 33 percent women in all local management committees,[69] another is *gacaca* courts in Rwanda—into institutions where female participation is substantial and increasing. Sometimes critiques of traditional justice as dominated by male elites enable regulation that renders it much more representative of disadvantaged strata of the population than the courts. We saw this with the 1993 amendments to the Indian Constitution that required *Panchayats* (village governance institutions in all states, village courts in some) with at least one-third of the officers women and with seats reserved for Scheduled Castes in proportion to the representation of each lower Caste in that area.[70] Thence a new platform is created for questioning why the courts cannot manage comparable proportions of women and judges from lower castes. Restorative justice and reconciliation, even while being relational forms of justice, can in such ways contribute to the creation of a "vibrant 'agonistic' public sphere of contestation where different hegemonic political projects can be confronted."[71]

Notes

1. Jennifer Llewellyn and Daniel Philpott, "Restorative Justice and Reconciliation: Twin Frameworks for Peacebuilding," this volume.
2. The concepts of negative and positive peace originated in the work of John Galtung; John Galtung "Violence, Peace and Peace Research," *Journal of Peace Research* 6, no. 3 (1969): 167–191.
3. John Braithwaite, *Restorative Justice and Responsive Regulation* (Sydney; New York: Federation Press and Oxford University Press, 2002).
4. Philip Pettit, *Republicanism* (Oxford: Clarendon Press, 1997); John Braithwaite and Philip Pettit, *Not Just Deserts: A Republican Theory of Criminal Justice* (Oxford: Oxford University Press, 1990).
5. Clifford Geertz, *Local Knowledge: Further Essays in Interpretive Anthropology* (New York: Basic Books, 1983).
6. Luc Huyse and Mark Salter, *Traditional Justice and Reconciliation after Conflict: Learning from African Experiences* (Stockholm: International IDEA, 2008).
7. Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (Chicago: University of Chicago Press, 2006).
8. Philip R. Wood, *Maps of World Financial Law* (London: Allen and Overy, 1997).
9. Miranda Forsyth, *A Bird that Flies with Two Wings: Kastom and State Justice Systems in Vanuatu* (Canberra, ACT: ANU E Press, 2009).

10. Asia Foundation, *Law and Justice in East Timor: A Survey of Citizen Awareness and Attitudes Regarding Law and Justice in East Timor* (Dili, East Timor: Asia Foundation, 2004); UNDP, *Justice for All? An Assessment of Access to Justice in Five Provinces of Indonesia* (Jakarta: UNDP, 2007), 2.
11. John Braithwaite, Hilary Charlesworth, Peter Reddy, and Leah Dunn, *Reconciliation and Architectures of Commitment: Sequencing Peace in Bougainville* (Canberra, ACT: ANU E Press 2010); John Braithwaite, Sinclair Dinnen, Matthew Allen, Valerie Braithwaite, and Hilary Charlesworth, *Pillars and Shadows: Statebuilding as Peacebuilding in Solomon Islands* (Canberra, ACT: ANU E Press, 2010).
12. Jean Comaroff and John Comaroff, "Occult Economics and the Violence of Abstraction: Notes from the South African Postcolony," *American Ethnologist* 26 (1999): 279–303.
13. Forsyth, *Bird that Flies*.
14. Huyse and Salter, *Traditional Justice and Reconciliation*.
15. I am indebted to Miranda Forsyth for this point.
16. Harry Blagg, "A Just Measure of Shame? Aboriginal Youth and Conferencing Australia," *British Journal of Criminology* 37 (1997): 481–501.
17. Edward W. Said, *Orientalism: Western Conceptions of the Orient* (Harmondsworth, UK: Penguin, 1995).
18. Braithwaite, *Restorative Justice*.
19. Merry, *Human Rights and Gender Violence*.
20. Merry, *Human Rights and Gender Violence*, 122.
21. Ibid., 229.
22. Patrick Howley, *Breaking Spears and Mending Hearts* (London; Sydney: Zed Books and The Federation Press, 2002).
23. Prison Fellowship International "Prison Fellowship International Award Peace Foundation Melanesia," (2007) accessed August 11, 2010 http://www.thefreelibrary.com/Prison+Fellowship+International+award%3A+Peace+Foundation+Melanesia...-a0180102731.
24. Llewellyn and Philpott, "Restorative Justice and Reconciliation."
25. C. Wright Mills, *The Sociological Imagination* (New York: Oxford University Press, 1960).
26. Jeff Latimer, Craig Dowden, and Danielle Muise, *The Effectiveness of Restorative Justice Practices: A Meta-Analysis* (Ottawa, Canada: Department of Justice, 2001).
27. Braithwaite, *Restorative Justice*, 51–69.
28. Braithwaite et al., *Reconciliation and Architectures*.
29. John Braithwaite, Valerie Braithwaite, Michael Cookson, and Leah Dunn, *Anomie and Violence: Non-Truth and Reconciliation in Indonesian Peacebuilding* (Canberra, ACT: ANU E Press, 2010).
30. Victor Ingreja and Beatrice Dias-Lambranca, "Restorative Justice and the Role of Magamba Spirits in Post-Civil War Gorongosa, Central Mozambique," in *Traditional Justice and Reconciliation after Conflict: Learning from African Experiences*, ed. Luc Huyse and Mark Salter (Stockholm: International IDEA, 2008).
31. Braithwaite et al., *Anomie and Violence*.
32. Huyse and Salter, *Traditional Justice*.
33. John Braithwaite, "Between Proportionality and Impunity: Confrontation-Truth-Prevention," *Criminology* 43, no. 2 (2005): 283–306. (For this starting model see Figure 1, p. 290).
34. Particularly grounded in James Gibson's survey and other empirical work: James Gibson, *Overcoming Apartheid: Can Truth Reconcile a Divided Nation?* (New York: Russell Sage Foundation, 2004).
35. Susanne Karstedt, "The Nuremberg Tribunal and German Society: International Justice and Local Judgment in Post-Conflict Reconstruction" (paper presented at the Asia Pacific Centre for Military Law Conference, The Australian National University, Canberra, 2005) 4.
36. Ibid.; Susanne Karstedt, "From Absence to Presence, from Silence to Voice: Victims in Transitional Justice since the Nuremberg Trials," *International Review of Victimology* 17 (2010): 1–8.
37. Geertz, *Local Knowledge*.
38. Braithwaite et al., *Anomie and Violence*, ch. 4.

39. Stephen Parmentier and Elmar Weitekamp, eds., *Crime and Human Rights* (Amsterdam; Oxford: Elsevier Publishers 2007) 109–144.
40. "The ultimate goal of traditional justice systems among the Kpaa Mende (and indeed among most African communities) is reconciliation." (Joe A.D. Alie, "Reconciliation and Traditional Justice: Tradition-Based Practices of the Kpaa Mende in Sierra Leone," in *Traditional Justice and Reconciliation after Conflict: Learning from African Experiences*, ed. Luc Huyse and Mark Salter (Stockholm: International IDEA, 2008)).
41. "No Stumbling Blocks to Reconciliation," http://peace.fresno.edu/docs/2Cor5_20-6_10.pdf, Sermon at Yogyakarta International Congregation, Indonesia (March 5, 2000).
42. Braithwaite et al., *Anomie and Violence* ch. 3.
43. *Hibua lamo* is a cultural tradition in North Maluku of binding Christian and Muslim villages together in pacts of peace and mutual help that is similar to *pela-gandong* in Maluku. It is seen as a pluralist custom pre-dating the arrival of Islam and Christianity that involves "equality among the differences" (Gorua interview). It was believed that when Islam arrived, *hibua lamo* meetings were held to agree that "this religion will be welcomed, but some will accept it and others will not. But we will still all be brothers together in spite of this." It was widely believed that in the decades leading up to the conflict the bonds of *hibua lamo* had weakened across North Maluku. At the early post-conflict reconciliation meetings, the mayor told the story of a famous historical figure of the district. He was a wealthy man with a big home and, in the spirit of *hibua lamo*, he allowed his home to be used for both Sunday Christian services and Friday Muslim prayers. In the *hibua lamo* ritual itself, one side gives sri fruit and the other panang fruit placed on swords and exchanged to indicate they are friends. Sugar cane juice (representing sweet, happy things) combined with traditional cooking oil (representing sincerity, peace, kindness, and justice) is then poured over swords, shields, arrows, and other weapons. Then there is an agreement called *koboto*, a sacred declaration to maintain peace. Anyone who tries to destroy it will never succeed in life and will live in misery. Part of the agreement in Tobelo, where hundreds had been slaughtered, was to hand over weapons to the military. The fact that some who failed to do so later found themselves in trouble with the military for this was interpreted as evidence that the sacred power of the declaration worked.
44. Braithwaite et al., *Anomie and Violence*, ch. 4.
45. Local officials encouraged former GAM (Free Aceh Movement) fighters to participate in traditional reconciliation rituals—*peusijuek* ceremonies. Ross Clarke, Galuh Wandita, and Samsidar, *Considering Victims: The Aceh Peace Process from a Transitional Justice Perspective* (New York: International Center for Transitional Justice 2008, 14) reported that *peusijueks* (welcome-home ceremonies) for amnestied GAM prisoners returning to their villages were attended mostly by AMM (Aceh Monitoring Mission peacekeepers), military, and police representatives, and went off smoothly. One AMM officer had attended one *peusijuek* ritual attended by 112 GAM fighters and another in which 25 GAM families stood with 25 non-GAM families who were victims of the war, many at the hands of GAM. The World Bank found that almost all villages had experienced some form of *peusijuek* or *kenduri* ceremony and 77 percent of active GAM members surveyed reported that they had experienced welcome ceremonies in their village—sometimes family *peusijuek*, sometimes village *peusijuek*. Often every member of the village attended these rituals (World Bank, *GAM Reintegration Needs Assessment: Enhancing Peace through Community-Level Development Programming* (Jakarta: The World Bank, 2006), 25). *Peusijuek* usually involves pouring sacred water, yellow rice, or powder on those blessed after reconciliation of a dispute, returning from the *hajj*, and other important events. Separate processes before a *peusijuek* would normally work through the resolution of the dispute. For example, *suloh* is a more complicated process involving many people in reconciliation by negotiation and testimony, related to the Arabic (and Jewish) restorative justice practice of *sulha*. The *peusijuek*, in contrast, symbolizes only the fact that the parties are at peace. It can also be a cooling down that prepares parties in conflict to subsequently sit down to talk. So these watering ceremonies are "social practices, not discursive practices. It's actions. Not in the mind, it's in the practice" (Personal communication, Mustafa Arahman, State Institute of Islamic Studies, Banda Aceh.) Watering "cools people down," watering them as if they were plants. Widows and other conflict victims were often also blessed

in these rituals. Ex-combatants also widely experienced religious welcomes of reconciliation and forgiveness, as in sermons by imams in mosques and village halls. *Peusikuek* is probably a pre-Islamic tradition that has some elements widely interpreted as suggestive of the earlier Buddhist/Hindu influence on Aceh. Sometimes people who have been in conflict shake hands in the presence of a traditional leader who has worked on reconciliation between them, and selected prayers for peace and selected verses of the Koran for peace may be recited. Some of these were between GAM leaders and leaders of militias opposed to them, who made commitments to each other in the mosque and hugged in front of the mosque afterwards, with important figures on both sides adding gravitas to the occasion—for example, a minister from Jakarta and the Governor of Aceh.

46. Braithwaite et al., *Anomie and Violence*, ch. 2 and 5.
47. Christians go to Muslim homes at the ritual of *halal bi halal* to ask for forgiveness for any (non-specified) thing they had done to treat their Muslim neighbor badly in the past. It is common to read in the Jakarta press how *halal bi halal*—this ritual of mutual asking for forgiveness that is unique to Indonesia—has lost all meaning. People ask forgiveness ritualistically, with no depth of feeling, from people whom they do not feel need to forgive them for anything. After the terrible inter-village wars of the turn of the millennium, however, the ritual acquired a new depth of meaning. People would hug each other for long periods, weeping, after forgiveness was offered. Both parties would know of the acts of arson or violence for which forgiveness was very much needed, but these specific acts would not be vocalized in the context of the *halal bi halal* ritual.
48. Valerie Braithwaite, *Defiance in Taxation and Governance: Resisting and Dismissing Authority in a Democracy* (Cheltenham, UK: Edward Elgar, 2009).
49. Shadd Maruna, *Making Good: How Ex-Convicts Reform and Rebuild their Lives* (Washington DC: American Psychological Association, 2001).
50. James Leong and Lynn Lee, *Passabe*, DVD (Singapore: Lianain Films, 2004).
51. Under pressure from the victim community, this confessor who paid the compensation and asked for forgiveness was not prosecuted for the murder or the assaults he confessed. This was absolutely in breach of the legal framework for the Community Reconciliation Process of the East Timor Commission for Reception, Truth and Reconciliation, which precluded community reconciliation for murder.
52. Erik Luna, "Punishment Theory, Holism, and the Procedural Conception of Restorative Justice," *Utah Law Review* 1 (2003): 205–260.
53. G. S. Leventhal, "What Should Be done with Equity Theory?" in *Social Exchange: Advances in Theory and Research*, ed. Kenneth J. Gergen, Martin S. Greenberg, and Richard H. Willis (New York: Plenum Press, 1980), 27–55; Allan E. Lind and Tom R. Tyler, *The Social Psychology of Procedural Justice* (New York: Plenum Press, 1988).
54. Braithwaite, *Restorative Justice*, 54–130.
55. Howard Zehr, *Changing Lenses: A New Focus for Criminal Justice* (Scottsdale, PA: Herald Press, 1995).
56. Heather Strang, *Repair or Revenge: Victims and Restorative Justice* (Oxford: Oxford University Press, 2002).
57. John Rawls, *A Theory of Justice* (Cambridge, MA: Belknap Press of Harvard University Press, 1971).
58. Merry, *Human Rights and Gender Violence*.
59. John Braithwaite, *Inequality, Crime and Public Policy* (London: Routledge, 1979); John Braithwaite, "Poverty, Power, White-Collar Crime and the Paradoxes of Criminological Theory," *Australian and New Zealand Journal of Criminology* 24 (1991), 40–50.
60. Paul Collier, *The Bottom Billion: Why the Poorest Countries are Failing and What Can Be Done about It* (Oxford: Oxford University Press, 2007).
61. Tom Tyler, *Why People Obey the Law* (New Haven, CT: Yale University Press, 1990); Tom Tyler and Steven Blader, *Cooperation in Groups: Procedural Justice, Social Identity, and Behavioural Engagement* (Philadelphia, PA: Psychology Press, 2000); Tom Tyler and Yuen J. Huo, *Trust and the Rule of Law: A Law-Abidingness Model of Social Control* (New York: Russell Sage, 2001).
62. Braithwaite, *Restorative Justice*, 98–99.
63. See Braithwaite et al., *Anomie and Violence*; Braithwaite et al., *Pillars and Shadows*.

64. Braithwaite, *Restorative Justice*.
65. Merry, *Human Rights*.
66. Braithwaite et al., *Anomie and Violence*, ch. 4.
67. Ibid., ch. 3.
68. As required when our perspective is a civic republican one (Pettit, *Republicanism*; Braithwaite and Pettit, *Not Just Deserts*).
69. Assumpta Naniwe-Kaburahe, "The Institution of Bashingantahe in Burundi," in *Traditional Justice and Reconciliation after Conflict: Learning from African Experiences*, ed. Luc Huyse and M. Salter (Stockholm: International IDEA, 2008).
70. *Indian Constitution* Part IX (the Panchayats) art. 243(d).
71. Chantal Mouffe, *The Return of the Political* (London; New York: Verson, 2005), 3.